

STAPLE INN READING

1998

The Fayrest Inne

Reader - Charles Sparrow QC

Foreword

These days, the title of University has come to be so widely used that there is no longer much dignity or magic in it. Yet there was a time, long ago, when England had but three Universities. Two of them, as we would expect, were Oxford and Cambridge. In addition, there was, in London, a Third University of England, commonly described in those words. This Third University was a University of the Law. Its colleges were: at a senior level, the Four Inns of Court and, in a supporting role, the Inns of Chancery, numbering about nine. Our pleasant concern is with the story of one of those Inns of Chancery, for that is what Staple Inn was.

At the threshold of our study, we should note, most particularly, that Staple Inn was, centuries ago, described as "the Fayrest Inne of Chancerie in this University".

First beginnings

Before we look at Staple Inn's ties with the English legal system, we must notice how the Inn first came into being. This chapter is unique in the history of all the Inns of Chancery.

In the early medieval period, there were confederations of traders who joined together to protect their collective interests, especially in foreign trade. One such body was the Merchants of the Staple. It originated in the thirteenth century and was incorporated in the year 1319. The ancient meaning of the word "staple" was quite commonplace. It meant simply a pile or heap. But, with time, the word came to have a special connotation, as denoting a place where goods were collected and piled for sale. By a further extension of meaning, the word staple was used to indicate certain principal commodities of foreign trade such as corn, leather, lead and, of course, wool. Within this class, wool attained a national eminence, which was symbolised in the Parliamentary woolsack, the seat of the Lord Chancellor.

Thus it was that the word Staple acquired a special significance, in medieval times, as denoting the pre-eminent trade in wool.

In 1354, Parliament passed a Statute of Staples. The trade in wool was regulated nationally; and certain towns were designated for the sale and export of wool. This regulation by government led to the establishment of Staples, i.e. sites where wool was collected, stored and parcelled and a toll or tax was levied. These places were, in short, customs-houses. They might also house courts for determining legal cases arising from the wool business. We cannot be sure when the wool merchants first used the site of Staple Inn, though we have documentary evidence of the removal of the Staple of Westminster, in 1375, to "a place called Staple Inn in Holborn".

That place was especially convenient for the purposes of trade. It lay upon a great highway of Roman origin, which was later known as Watling Street. It provided a packhorse route westward, to the Cotswold wool country. Moreover, the place was opposite to the site, in Holborn, of an important trading centre, Ely market, sometimes called the Bishop of Ely's Fair. The powerful Bishops of Ely owned land here from the earliest times and indeed built a palace. The connection of the Staple Inn site with the wool trade ended with the fourteenth century. It then became an Inn of Chancery.

Although not directly relevant to our present study, this piece of old London has a historic character. It was on the road to Tyburn. Titus Oates was sentenced to be flogged from Newgate to Tyburn. Much property in this neighbourhood was once owned by the Knights Templar and the Knights Hospitaller. Most dramatic of all events in the local history were to be the "No Popery" riots of 1780. A drunken mob pillaged and set fire to the Black Swan distillery, in Holborn, which

adjoined Barnard's Inn. That Inn was destroyed by fire. Staple Inn was put in peril but narrowly survived. In "Barnaby Rudge", Charles Dickens describes the scene, with its pools of flaming spirit, from the distillery, and recounts how the mob "dropped down dead by dozens".

As we approach the beginning of the long connection of Staple Inn with the law, it is well to comment on the term "Inn", which has been in use throughout the entire history of this institution. It would be easy to be misled by the modern meaning of this term. But its original meaning, in the English language, was different and very simple. It meant merely a house or residence, a dwelling place. To put the matter crudely, it was the term for a place that somebody was in. Moreover, at an early stage of our language, the word "inn" could be used as a verb. One could speak of the place where somebody lived, or "inued".

So, for our purposes, we should give the word Inn the plain meaning of "House".

Over the centuries, the Inns of Court were, very frequently, called Houses of Court. Staple Inn was merely the House of a Staple, i.e. a customs-house for wool. That label has endured for some six centuries, to this day.

Inns of Court

Until the 13th century, the role of advocate in courts of law was commonly undertaken by the clergy. But, in 1207, the Church decreed that its priests could no longer appear as pleaders in the civil courts. Here was the beginning of our legal profession.

The new race of lawyers established themselves in four centres which we might today term colleges or institutions but which, in the plain language of that time, were described, sensibly, as Inns. These came to be called the Inns of Court.

It seems probable that, at the time of the formation of the Inns of Court, it would have been difficult to find suitable accommodation within the Roman walls of the City of London. One historian states bluntly that "no school of law nor Inn of Apprentices of the law was permitted within the walls of the City". At national level, there was official encouragement for a site in proximity to the Courts. In the event, the four Inns of Court positioned themselves in the countryside outside the walls of London. So placed, they were proximate to the City of London, a vital source of business, and also conveniently situated for those pleading in the Royal Courts at Westminster. A writer in the 15th century described this site as "nigh to the King's Court".

And so, to this day, we find a string of four legal institutions, neatly linked by Chancery Lane, which once included the site of the central establishment of the Court system managed by the Lord Chancellor. These institutions, the Four Inns of Court, are: Inner and Middle Temple, Lincoln's Inn and Gray's Inn.

The contemporaneous names of Chancellor's Lane and Gray's Inn Lane indicate clearly the fact that, when the Inns of Court were set up, the neighbourhood was still rural. Indeed, the Gray's Inn property was a manor and had a windmill and a dovecote.

At the time of the founding of the Inns of Court, academic life in England drew its strength from the culture and language of ancient Rome. It followed, inevitably, that the Universities of Oxford and Cambridge concerned themselves with Roman law only. They gave no training in the common law of England,

which derived from the tribal custom of the Anglo-Saxon settlers in this country. Thus the role assumed by the Inns of Court was to provide legal education for practitioners in the Royal Courts of England.

Clustered around and about the Inns of Court, there came to be established the Inns of Chancery. It is not surprising that the four Inns of Court created or attracted satellite bodies. Yet we should note that the Inns of Chancery were not simply preparatory establishments for the Inns of Court. Their purpose was to give training to three distinct classes of law students, namely, those who aspired to become barristers, those who intended to practise as attorneys and those who would be employed in the Royal Courts.

Looking back from the 16th and 17th centuries, the great Chief Justice Sir Edward Coke described the character and function of the Inns of Chancery in these words: "For the young student, which most commonly cometh from one of the Universities, for his entrance or beginning were first instituted and erected eight houses of Chancery, to learn there the elements of the law."

An equally eminent authority, Sir John Fortescue, had surveyed the structure of legal education in the 15th century and described it thus: "Here in Term time the students of the law attend in great numbers, as it were to public schools, and are there instructed in all sorts of law learning and in the practice of the Courts. There belong to it ten lesser Inns, and sometimes more, which are called the Inns of Chancery, in each of which there are a hundred students at the least, and in some of them a far greater number though not constantly residing. The students are for the most part young men."

In a later passage, Fortescue observed that "for the endowment of vertue and abandoning of vice, Knights, Barons with other states and noblemen of the Realm place their children in those Inns though they desire not to have them learned in the Laws nor to live by the practice thereof".

In passing, we may note a somewhat less idyllic picture, supplied by another ancient writer, who wrote of frequent disturbances by reason of "the unthrift of the Inns of Chancery", who were "unruly on nights, walking about to the disturbance and danger of such as passed along the streets".

When Coke, in his day, was describing the complete system of legal Inns, he declared: "All these are not far distant from one another, and altogether do make the most famous university for profession of law only, or of any one human science that is in the world".

In another passage, the quality of the legal education so provided by the Third University was eulogised by Sir Edward Coke thus: "In which houses of Court and Chancery, the readings and other exercises of the laws therein continually used are most excellent and behoofful for attaining to the knowledge of these laws." The Oxford Dictionary records the adjective "behoofful" and defines it as: "useful; needful".

A rather sour survey, by another writer of the 17th century, divided the system of Inns of Chancery and Court respectively, between "minora, preparatory lodges of freshmen" and "majora, such as received not the gudgeons and smelts but the polypus's and Leviathans, the Behemoths and the giants of the law".

Inns of Chancery

At this time, English law was dominated and confined by the so-called writ system. This meant that legal proceedings could be maintained if, but only if, they conformed strictly to the pattern of some specific form of action recognised by and recorded in the Royal Courts. Indeed, in one case, a judge has observed that the technicalities of the forms of action "bedevilled" English law. It necessarily followed that every practitioner in the English legal system had to be familiar with the writs accepted and issued by the Royal Courts. Sir John Fortescue described the nature of such writs as "the very first principles of the law".

The Lord Chancellor's department, which managed the Courts, was referred to by use of the word "Chancery". The Oxford Dictionary defines that term as "A worn-down form" of the word chancellery, i.e. the Lord Chancellor's Department.

So, for all those who went through the preparatory establishments associated with the Inns of Court, a knowledge of the writs allowed by Chancery was literally vital. It was a preoccupation shared by barristers, attorneys and officers of court alike. Thus, at last, we arrive at an understanding of the now obsolete designation Inn of Chancery. The term denoted a medieval law school, supplying a primary training in the field of legal practice.

As one legal historian has put it, writs formed the elements of study at an Inn of Chancery and "it was but natural that the place in which these elements were taught should be called from the department in which they were concocted".

Staple Inn

It is possible that the previous link of Staple Inn with the legal regulation of the wool trade encouraged its transformation into a college of law. In any event, we can date the establishment here of an Inn of Chancery to the early 15th century.

As an Inn of Chancery, this body called itself "The Grand Company and Fellows of Staple Inn". It was headed by a Principal elected every third year; and it had a governing body of Grandfellows. In time, the designation of a member of the Inn changed from Fellow to Ancient, a term that was found in Gray's Inn, with which Staple Inn came to be closely associated.

There is a record of the numbers of students in the Inns of Chancery in the year 1586. This shows Staple Inn as having a significantly larger number than any other Inn of Chancery. It cannot be doubted that Staple Inn was a leader in its class.

In 1580, additional land was acquired for Staple Inn and a new hall was built. From this time, there was much rebuilding within Staple Inn. The shops that still constitute, for the outside world, the familiar countenance of Staple Inn were built in 1586. They have long provided a fascinating scene for artists and print-makers.

Appendancy

It was a general feature of the Inn system that the Inns of Chancery operated under a patronage or guardianship, provided by the Inns of Court. In one of the histories of Staple Inn, this relationship is described as "appendancy". The overall pattern was that each Inn of Court had the care of two or three Inns of Chancery. Staple Inn and Barnard's Inn were the daughter Inns, as Inns of Chancery were sometimes termed, of Gray's Inn. A document of 1584 testified to Staple Inn as "an Inne of Chancery, appendant and belonging to Gray's Inn".

The parental relationship was formally recorded by an Order in Council of 1631. Article I declared "That the Inns of Chancery shall hold their government subordinate to the Benchers of the Inns of Court to which they belong." Article II required "That the Benchers of every Inn of Court cause the Inns of Chancery to be surveyed, that there may be a competent number of Chambers for Students".

This governmental jurisdiction was firmly exercised. In 1596, the Bench of Gray's Inn asserted their authority to remove the Principal of Staple Inn. And, in 1624, they adjudicated upon complaints made by the Principal and Ancients of Staple Inn against certain members of that Inn.

In 1669, there was a dispute among the members of Staple Inn about the correct procedure for the election of a Principal. It would appear possible that senior members had sought to monopolise the running of an election. A petition was presented to the Bench of Gray's Inn by about eighty Staple Inn members. A pending election was suspended and Gray's Inn held an inquiry into "the Auncient Books and Orders of the Society of Staple Inne". The ultimate decision

by the Bench of Gray's Inn was that the election of a Principal should be made by the whole Society.

During the 17th century, there was other affirmation of the authority by which an Inn of Court controlled the life of its Inns of Chancery. In 1630, the judges issued orders controlling such matters as dress and the carrying of weapons; and there was a formal declaration of the controlling power of the Inns of Court over the Inns of Chancery, with provision for severe punishment of any challenge. This was the stern face of appendancy.

The authority of the Bench of Gray's Inn over Staple Inn and Barnard's Inn was reflected in a commission under the great seal of England, dated 19 December 1677, which obliged the Treasurer and Benchers of Gray's Inn to require and receive oaths of supremacy and allegiance from papists or reputed papists within the Inn "or the Inns of Chancery belonging to it". In pursuance of that commission, the Benchers of Gray's Inn ordered the Principals of Staple Inn and Barnard's Inn to attend at Gray's Inn "with the names of all papists and reputed papists of their respective houses".

The relationship between an Inn of Chancery and its guardian Inn of Court could differ in its detail. For example, the Inn of Court might own the site of the Inn of Chancery; but this was not always the case. Gray's Inn did not own Barnard's Inn but it did own the land on which Staple Inn stood.

Student life

For a young man intending to become a barrister, the course of instruction at Staple Inn would usually last for two years. His tuition would be supervised by Gray's Inn, acting through Benchers and nominated barristers.

Educational methods in those days were somewhat different from modern techniques. Emphasis was put upon group exercises in oral submissions and discussion. This was due, no doubt, to the relative scarcity and expense of books. The main features of the system at that time were moots and bolts. Moots were simulated court hearings, before senior members of an Inn, acting as judges. Bolts were similar to moots but of a lower grade.

Above all other features of the scheme of legal training, Gray's Inn and the other Inns of Court provided the services of Readers. We would call them lecturers or tutors. It was a strict obligation of those who sought to be Benchers of Gray's Inn that they should accept office as Reader. Indeed that obligation was enforced by a system of fines. It is noted in the Bench records of Gray's Inn that, in the year 1671, a Reader was punished, for not reading, by a fine of £30. The severity of that penalty, at its then value, is truly remarkable.

Each year, in addition to the provision of Readers for Gray's Inn students, the governing council of Gray's Inn, known as Pension, would formally appoint a Staple Inn Reader. On a certain day, the Reader would proceed with solemnity from the gate in Gray's Inn Road, (then Gray's Inn Lane), and make his way to Staple Inn, there to be received with much honour and dignity.

It is clear that the supervisory role of Gray's Inn, in the field of education, was far from being merely formal. Gray's Inn took most seriously its duty towards Staple Inn and Barnard's Inn.

In 1633, Gray's Inn imposed a regulation that Readings in Staple Inn and Barnard's Inn should be given personally and not by deputy. A writer of that time recorded that the Inns of Court sent Readers to the Inns of Chancery, "who do therein read law to the young students after the likeness of the Inns of Court".

The close working connection between the Inns was reflected in the procedure for the appointment of these Readers. Gray's Inn would put to Staple Inn the names of three utter barristers. The Principal and Ancients of Staple Inn were then invited to make their own choice. If they failed to nominate one of the three barristers, the Benchers of Gray's Inn would make the choice. In any event, Gray's Inn would record a formal appointment, by the Benchers in Pension.

In these various ways, there was, without doubt, a strong family connection. Moreover, I am sure that there was a strong student fellowship between Gray's Inn and its Inns of Chancery. I would offer what I see as clear evidence of that fellowship.

In Gray's Inn, we had an example of a folk custom that was prevalent in medieval times, namely, the elevation of a figure commonly termed a Lord of Misrule. At a certain point in the year, the community, whatever it was, village, parish or college, would reverse the social hierarchy. A person of inferior status would, for a time, such as the Christmas season, exercise the rank and privileges of the normal governor or leader of the community. For a brief space, the world would be turned upside down.

The principle of this custom was, in Gray's Inn, played out most elaborately. The origin of Gray's Inn as a landed property was a certain Manor of Purpoole (or

Portpool). And so, the Lord of Misrule, who once a year was here brought into being, came to be termed the Prince of Purpoole. He was accorded a retinue which included, amongst others, an Archbishop, a Lord Chief Justice and a Chancellor of the Exchequer, all ceremonial impostors.

Incidentally, this delightful ritual was revived in the year 1994, when Gray's Inn celebrated the 400th anniversary of the First Performance, in Gray's Inn Hall, of William Shakespeare's Play, "The Comedy of Errors". The Play had been given in 1594, during the Christmas Revels.

The Prince of Purpoole classically rejoiced in a number of subsidiary titles, including Duke of High and Nether Holborn, Marquis of St. Giles and Tottenham, Count Palatine of Bloomsbury and Clerkenwell and Great Lord of the Cantons of Islington, Kentish Town, Paddington and Knightsbridge. But, we should note that, above all these titles, the Prince was revered as Archduke of "Stapulia and Bernardia".

I suggest that we have here the lively reflection of a common identity, at student body level, of those who were learning their law either at Gray's Inn or at its Inns of Chancery, Staple Inn and Barnard's Inn.

Changing times

In the earliest days of our legal system, there was not the hard line of distinction between barristers and solicitors with which we are now familiar. Indeed, at one time, there was a requirement that attorneys, i.e. solicitors, should belong to an Inn, of Court or Chancery. But eventually, attorneys were barred from admission to the Inns of Court. The effect of this measure was to enhance the connection

between the Inns of Chancery and the solicitors side of the legal profession. In 1761, it was recorded that the Inns of Chancery were "for the most part taken up by Attornies, Solicitors and Clerks". But, in 1729, statute had put an end to the requirement for attorneys to be members of an Inn. This measure gradually worked a general decline in the appeal of the Inns of Chancery, even for solicitors.

And so, over a period of some two centuries, the Inns of Chancery lost their ties with the Inns of Court and eventually their character as institutions for training in the law. They became little more than enclaves of residential chambers. Mr Williams, the historian of Staple Inn, states that, after a gradual decline, the Inn became, in the eighteenth century, "practically a club". Dr Johnson was among those who had chambers in Staple Inn.

The condition of the several Inns of Chancery, at this time, varied a great deal. Some had serious difficulty in managing their property and finances.

Charles Dickens has provided an eternal record of the failing fortunes of Barnard's Inn. That Inn was, to his eye, "the dingiest collection of shabby buildings ever squeezed together in a rank corner as a club for tom-cats".

The final chapter

In the 19th century, there was one surviving remnant of the family relationship between Gray's Inn and Staple Inn. That was a customary invitation to the Principal and Ancients of Staple Inn to process to Gray's Inn and dine there in

celebration of the elevation of a member of Gray's Inn to the rank and dignity of Serjeant at Law.

For centuries, the structure of the English Bar embodied a superior status, that of Serjeant at Law, from which Judges were appointed. The dignity of that status far exceeded that of Queen's Counsel and was more ancient. Chaucer depicted a Serjeant at Law. Serjeants had their own Inn. At one time, there was a second Inn. The rank of Serjeant was abolished by Parliament in the 19th century but not before Charles Dickens had immortalised his Pickwick characters Serjeant Snubbin and Serjeant Buzfuz.

Elevation to Serjeant entailed leaving Gray's Inn and becoming a member of Serjeants' Inn. Francis Cowper, the historian of Gray's Inn, has described the proceedings thus: "When a member of Gray's Inn became a Serjeant he gave a breakfast to his fellows in Hall. The great bell tolled for his departure from 8.30 to 9.0 in the morning when he would drive in wearing his new purple robes and full-bottomed wig. He himself breakfasted in the Pension Room with the Benchers while the barristers and students sat down to the meal in Hall. The Ancients of Staple Inn and of Barnard's Inn who had already arrived in procession, attended by their Head Porters and other officers, had their own table. After an ample repast the cloths were removed and bowls of spiced wine were brought in".

In 1854, a Royal Commission began an inquiry into the Inns of Court and Chancery. The Commission reported a year later to the effect that the Inns of Chancery were no longer capable of making an effective contribution to the advancement of legal education. Indeed Staple Inn had, in its evidence to the

Commission, frankly disclaimed any surviving involvement with the legal profession.

The Royal Commission on the Inns recorded that a Reader had formerly come from Gray's Inn; but it was observed: "of what he read about, or who paid him, there is no minute whatever".

With the abolition of the rank of Serjeant at Law in 1873 and the consequent sale of Serjeants' Inn in 1877, it seems that the surviving Inns of Chancery came to realise that there was profit to be made. The members of an unincorporated body had and still have, in law, the power to terminate its existence and take for themselves the proceeds of a sale of its assets.

In 1884, Staple Inn was sold to a firm of auctioneers or builders. Each of the Ancients of Staple Inn received the sum of £8,000. The intention, at that time, was to demolish the buildings and develop the site. However, a more civilised plan eventually emerged. A piece of land on the south side of the garden was sold to the Patent Office; but the remainder of Staple Inn was acquired by the Prudential Assurance Company. In this way, the fabric of Staple Inn was preserved.

A careful restoration followed; and in 1887 there began the occupation of Staple Inn by the Institute of Actuaries, which has continued ever since.

If I may intrude a fragment of etymological learning, it seems to me that there is a certain aptness about a College of the Law coming into the possession of the Institute of Actuaries. The ancient meaning of the term actuary, which dates

back at least 400 years, is that of: "A registrar or notary, who keeps record of the acts of a court". I quote the Oxford Dictionary.

Reunion

Fate has been harsh and we have to accept that, as institutions, the Inns of Chancery no longer exist. However, alone among those nine Inns, Staple Inn and Barnard's Inn have survived physically; and it is a remarkable fact that what has been thus preserved, in its entirety, is the Gray's Inn family.

Moreover, it is a matter for profound satisfaction that these two Inns of Chancery are occupied respectively by the Institute of Actuaries and Gresham College.

In the year 1994, Gray's Inn began a process for the restoration of links with its former Inns of Chancery. This was not a mere sentimental gesture. Its purpose was to establish, in the field of legal education, a working relationship between Gray's Inn and two learned bodies of high distinction. It was, and remains, our intention to offer an educational contribution, through the medium of a revival of the ancient Gray's Inn Readership.

This evening, we share an occasion that is unmatched in the hundreds of years of Staple Inn history and we are, I suggest, entitled to enjoy that most delicious of sentiments - nostalgia. Staple Inn was, over centuries, esteemed as the Fayrest Inne. William Shakespeare must have come to visit Gray's Inn, just across the road. His patron, the Earl of Southampton was a distinguished member of that Inn. Dr Johnson lodged here in Staple Inn. Charles Dickens and William Cobbett worked in Gray's Inn. Dickens certainly visited Staple Inn. The charm of Staple Inn still endures and it is easy to feel the lure of which people spoke in

past times. I see no reason why we should deny ourselves a little sentiment upon this occasion.

However, we look forward to an enterprise in the field of legal education that will be positive. The Gray's Inn Readers will speak from experience in those branches of the law with which the Institute has a practical concern; and their endeavour will be to aid the Institute in its important role as a national institution.

So it is that, today, a Gray's Inn Reader has made his way to Staple Inn, some three centuries since the last Readership in 1675. All has been done today as it was then.

In 1906, Mr Williams dedicated his history of Staple Inn to the Directors of The Prudential Assurance Company "through whose public spirit and timely action Staple Inn has been preserved".

If you will permit me, I should like to dedicate this Reading, the first of a new era, to the Institute of Actuaries, whose care and stewardship of Staple Inn, over the past century, deserves the highest of praise.

15 May, 1998

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